

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SARA COOPER,

ORDER

Petitioner,

08-cv-555-bbc

v.

MISSOULA MAC, INC., McDONALDS #3596
and McDONALD'S CORPORATION,

Respondents.

Petitioner Sara Cooper is suing respondents Missoula Mac, Inc., McDonalds #3596 and McDonald's Corporation for a fall that she says was caused by their negligence. She has responded to this court's order directing her to file an amended complaint in which she alleges the state citizenship of each party. Unfortunately, the amended complaint shows that this court lacks subject matter jurisdiction to hear petitioner's claim.

As I explained to petitioner in the October 3, 2008 order, federal courts have limited authority to hear claims like hers that arise under state law. Under 28 U.S.C. § 1332, federal courts may hear state law claims when the plaintiff is a citizen of a different state than each of the defendants and the amount in controversy is more than \$75,000. In this case,

petitioner alleges that both she and respondents Missoula Mac, Inc. and McDonald's #3596 are citizens of Wisconsin. "For a case to be within the diversity jurisdiction of the federal courts, diversity must be 'complete,' meaning that no plaintiff may be a citizen of the same state as any defendant." Fidelity & Deposit Co. of Maryland v. City of Sheboygan Falls, 713 F.2d 1261, 1264 (7th Cir. 1983). Because petitioner alleges that she is a citizen of the same state as two of the respondents, this case must be dismissed for lack of jurisdiction. Petitioner is free to refile her claim in state court.

ORDER

IT IS ORDERED that this case is DISMISSED for lack of subject matter jurisdiction.

Entered this 21st day of October, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge